

**DISTRICT 2  
ANNUAL PRO BONO REPORT FOR 2001  
AND PLAN FOR 2002**

This Annual Pro Bono Report and Plan is made pursuant to Rule 6.5 of the Indiana Rules of Professional Conduct. The goals of this plan are as follows:

- (1) To enable Indiana attorneys to discharge their professional responsibilities to provide pro bono services;
- (2) To improve the overall delivery of civil legal services to persons of limited means by facilitating the integration and coordination of services provided by pro bono organizations and other legal assistance organizations throughout the state of Indiana;
- (3) To ensure statewide access to high quality and timely pro bono civil legal services for persons of limited means by (i) fostering the development of new pro bono programs where needed and (ii) supporting and improving the quality of existing pro bono programs;
- (4) To foster the growth of a public service culture within the Indiana Bar which values pro bono publico service;
- (5) To promote the ongoing development of financial and other resources for pro bono organizations in Indiana.

1. Summary of Current District Activities and District Plan

**1. 2001 District Plan**

The District 2 Pro Bono Legal Services Committee—compassing Elkhart, Kosciusko, Marshall and St. Joseph Counties—received a grant of \$18,041 from the Indiana Pro Bono Commission on January 17, 2001. Shortly thereafter, the District 2 Pro Bono Committee, in partnership with the St. Joseph County Bar Pro Bono Committee, conducted a written survey of 550 practicing attorneys in St. Joseph County. Compilation of the survey results was completed in May of this year, with 100 hours of technical and administrative time contributed by Barnes & Thornburg.

In early June, the duties of a part-time plan administrator were defined, and Attorney Sherry L. Clarke was hired as the first plan administrator. Office space, furniture and equipment are being provided on an interim basis in the St. Joseph County Juvenile Justice Center.

Now that an administrator is in place, a survey of 220 attorneys in Elkhart County, 77 attorneys in Kosciusko County, and 45 attorneys in Marshall County will be completed in coordination with the organized bar and judiciary in those counties. The survey is intended to identify attorneys who are interested in participating in pro bono services and in what areas of law, to develop baseline data on those already providing such services, and to identify principal barriers to pro bono activity along with suggested ways to reduce those obstacles. A list of licensed attorneys in each county has already been obtained for that purpose.

## **2. Current Legal Services Delivery System**

Free legal representation for low-income persons is primarily furnished through three programs located in District 2. Indiana Legal Services (formerly Legal Services of Northern Indiana) serves poor persons in all four counties in the district; the Notre Dame Legal Aid Clinic provides free services primarily in St. Joseph County, with some clients in Elkhart and Marshall counties; and Elkhart Legal Aid Service serves indigent persons in Elkhart County. Detailed information regarding the types of legal problems addressed and priorities of these programs are provided in Appendix A. Each program refers cases it cannot accept, whether due to lack of resources or conflicts, to private attorneys on a pro bono basis. Additional information regarding the caseload, funding, and use of pro bono private attorneys can be found in Appendix A.

In addition, individual attorneys in each county provide pro bono assistance in the following contexts:

- (1) Court-oriented programs, such as the Court Appointed Special Advocate (CASA) program in St. Joseph County;
- (2) Voluntary associations serving particular groups—e.g., Aids Assist, Volunteer Income Tax Assistance (VISTA), and Midwest Immigration Right;
- (3) Referrals by non-profit organizations, such as churches, shelters, programs serving the elderly, and the like; and
- (4) Informal referrals from such sources as courts, bar groups, other attorneys, friends and family members.

No district-wide data quantifying the number of persons served or the number of attorneys providing free services in these contexts is available.

### **3. Plan for 2002**

Despite laudable ongoing efforts by the established programs and many private attorneys throughout the District, it is projected that the need for free legal services will grow over the next year, while publicly funded programs will be forced to decline hundreds of cases due to limited personnel, acceptance criteria, and conflicts due to prior representation of an adverse party.

Accordingly, the District 2 Committee will focus on two principal goals during the coming year: (1) to increase substantially the number of private attorneys accepting pro bono cases; and (2) to develop resources to support the pro bono activities of the private bar. Specific steps to achieve these overall goals have been defined in the Plan as follows:

- a. Utilizing information from attorney surveys, identify attorneys willing to provide pro bono services and in what specific areas of law;
- b. Establish a panel of volunteer attorneys willing to perform pro bono services in each county to handle cases which existing programs and pro bono panels cannot;
- c. Establish criteria and procedures for screening and referring pro bono cases to panel members;
- d. Investigate, design and implement a litigation support system for district pro bono services, including pleading and form banks, legal education seminars, cost reimbursement, and coordination with more experienced pro bono providers;
- e. Collect baseline data on legal needs of the poor and existing pro bono services;
- f. Refine and implement procedures for tracking the achievement of plan goals, including the number of attorneys providing pro bono services, number of hours and number of clients served, and associated costs.

## **2. 2000-2001 Annual Report**

**1. Committee Membership.** Hon. Peter J. Nemeth, Judge, St. Joseph County Probate Court, 1000 S. Michigan St., South Bend, IN 46601, is the presiding judge designated by the Indiana

Supreme Court pursuant to Indiana Rule of Professional Conduct 6.5(f).

<i>PRO BONO COMMITTEE DISTRICT 2</i>	
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Mr. Kevin J. Butler Butler & Simeri (President of St. Joseph County Bar Association)	131 S. Taylor South Bend, IN 46601 Telephone: (219) 233-3303 Fax: (219) 284-2397
Mr. Larry D. Beeson (Past President, Marshall County Bar Association)	207 North Main Street Bourbon, IN 46504 Telephone: (219) 342-0028 Fax: (219) 268-2984
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Ms. Eileen Doran Director, Notre Dame Legal Aid Clinic (Pro bono service provider; Chair, St. Joseph County Bar Association Pro Bono Committee)	725 Howard South Bend, IN 46617 Telephone: (219) 631-4863 Fax: (219) 631-6725
Ms. Violet Hawkins Vice President, Resource Distribution United Way of St. Joseph County, Inc. (Community at Large)	3517 E. Jefferson Blvd. P.O. Box 6396 South Bend, IN 46660 Telephone: (219) 232-8201, Ext. 232 Fax: (219) 232-2350 E-mail: vhawkins@uwsjc.com
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(Community at Large)	<p>Telephone: (219) 232-8201, Ext. 235 Fax: (219) 239-2251 E-mail: hhughes@uwsjc.com</p>
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<p>Mr. Douglas A. Mulvaney Stutsman Mulvaney &amp; DeBoer (Board member, Elkhart Legal Aid)</p>	<p>1300 Cassopolis St. Elkhart, IN 46516 Telephone: (219) 266-8500 Fax: (219) 206-9215</p>
<p>Mr. Christopher Murphy Chairman of the Board and CEO 1<sup>ST</sup> Source Bank (Community at Large)</p>	<p>P.O. Box 1602 South Bend, IN 46634 Telephone: (219) 235-2711 Fax: (219) 235-2033</p>
<p>Mr. Richard W. Paulen Barnes &amp; Thornburg (President, Elkhart Bar Association)</p>	<p>121 W. Franklin St. Elkhart, IN 46515 Telephone: (219) 293-0681 Fax: (219) 296-2535</p>
<p>Ms. Gail Peshel Director of Career Services University of Notre Dame Law School (Law school representative)</p>	<p>Room 301, Law Building University of Notre Dame Notre Dame, IN 46556 Telephone: (219) 631-7625 Fax: (219) 631-4789 E-mail: peshel.1@nd.edu</p>
<p>Honorable Rex L. Reed Judge, Kosciusko County Circuit Court</p>	<p>121 N. Lake St., 1<sup>st</sup> Floor Warsaw, IN 46580-2785</p>

<i>PRO BONO COMMITTEE</i> <i>DISTRICT 2</i>	
	Telephone: (219) 372-2402 Fax: (219) 372-2406
Honorable James W. Rieckhoff Judge, Elkhart County Superior Court #5	315 South Second St. Elkhart, IN 46516-3138 Telephone: (219) 523-2245 Fax: (219) 523-2323

2. **Governance.** Each member of the Committee is appointed for a one-year term. Vacancies either during a term or at the conclusion of a term are filled by the presiding judge designated pursuant to Rule 6.5(f).
3. **Plan Administrator.** The plan administrator is Sherry L. Clarke. Her office address is 1000 S. Michigan St., Phone 219-235-5354, Fax 219-235-5382, e-mail address probon2@yahoo.com. The Plan Administrator has been hired on a part-time basis with funds received from the 2001 IOLTA grant.

The duties of the Plan Administrator are as follows:

1. Draft annual report and plan for approval by District Committee.
2. Prepare agenda and minutes of committee meetings.
3. Complete administration and analysis of attorney questionnaires.
4. Consult and coordinate with existing legal service providers, courts, local bar officers and committees, and others in the community to design and implement specific aspects of the district plan.
5. Recruit new attorney volunteers for pro bono panels in each county.
6. Develop screening and referral protocols for matching pro bono attorneys and prospective clients in district program.
7. Coordinate with bar groups and existing programs to provide CLE programs geared to pro bono representation.
8. Investigate and develop proposals for pro bono litigation support, securing software, an 800-number, malpractice coverage, cost reimbursement, and sample forms bank.
9. Maintain records of receipts and expenditures, other financial records of the Committee.

10. Keep administrative records of pro bono referrals and data required for monitoring the district program's success and achievement of plan goals.
4. **Accounting of 2000 Plan.** Through June 30, 2001, the Committee has undertaken the following actions in furtherance of the 2000-2001 Plan:
  - A. Submission of a revised budget to the Commission.
  - B. Publication of receipt of the IOLTA grant and the bar's pro bono initiative in local newspapers and to bar groups.
  - C. Joint meeting with the St. Joseph County Bar Pro Bono Committee.
  - D. Survey of attorneys in the most populous county (St. Joseph) and preparation of a written analysis and summary.
  - E. Addition of names of attorneys willing to perform pro bono services (as determined by survey results) to the St. Joseph County panels maintained by existing legal services programs.
  - F. Secure office space and equipment for the new plan administrator in the St. Joseph County Juvenile Justice Center.
  - G. Definition of duties, selection and hiring of plan administrator.
  - H. Prepare and approve District 2 Annual Report and Plan for 2002.
  - I. Take preliminary steps in surveying attorneys in Elkhart, Kosciusko and Marshall counties.

A copy of the District 2 accounting for the period January 1- June 30, 2001 is attached at Appendix B.

5. **Monitoring Methods.** The progress and success of the district plan will be measured through data compiled by and submitted to the Committee by the Plan Administrator in an annual report. The annual report will detail the quality and type of services provided as well as the number of attorneys participating, number of clients served and the total number of pro bono hours provided through the district plan, as well as the costs associated with achieving the plan goals. A form will be distributed to participating attorneys itemizing the type of case, case outcome, total number of pro bono hours, and

out-of-pocket costs to be reimbursed. The administrator will input this information throughout the plan year, and follow up with volunteer attorneys to secure the desired information. The specific method of following up the status and disposition of referred cases with both clients and attorneys has not yet been determined by the Committee.

6. **Results to Date.** Results of the 2001 survey of St. Joseph County attorneys are attached at Appendix C.

7. **Existing Services, Programs and Funding Sources.** Detailed information concerning each of the existing legal services programs in District 2 is contained in Appendix A.

8. **Current Delivery System and Pro Bono Aspect of the System.** Not applicable. The district has not yet established its own independent delivery system.

### 3. **2001-2002 Annual Plan**

#### 1. **Principal Problems in Current Pro Bono Delivery Systems .**

Pro bono service by private attorneys is constrained by (a) a shortage of attorneys currently available for referral; (b) attorneys' lack of experience with legal problems most commonly encountered by indigent persons; and (c) lack of an administrative support system for pro bono volunteers.

#### 2. **Recommended Plan for Implementation.**

- a. Problem/Barrier #1. A shortage of private attorneys available for pro bono referral.
- b. Supportive data. Attorney surveys indicate that only 20% (111 of 550 attorneys in St. Joseph County) participate in pro bono service to poor persons.
- c. Recommended action and plan for implementation.
  1. Establish a panel of pro bono attorneys in each county in the district.
  2. Install "Windows for Clients" software to track referrals, progress of cases, costs and outcomes.
  3. Expand the number of volunteer attorneys through publicity about the District program and activities, utilizing bar newsletters, meetings, and direct mailings.



4. Work with local bar associations to create or strengthen pro bono committees, and encourage one-on-one recruitment by present panel members.
5. Recognition of service at an annual awards dinner honoring pro bono volunteers in each county.
6. Install a no-toll phone number covering all of District 2 for use by applicants and attorneys outside the South Bend calling area.

In addition, steps to facilitate CLE training, litigation support, and mentoring, discussed below in #2 and #3, will strengthen the District's efforts to recruit new volunteers.

d. Coordination with the community. Community agencies serving the poor will be made aware of the district program, through meetings with the Plan Administrator and committee members and distribution of written information about the program.

e. Expected results. The committee anticipates not only an increase in the number of attorneys volunteering for pro bono service, but also creation of a system of rotation, so that all attorneys

are contacted at least once during the year and referrals are made to attorneys with expertise in the requisite area of law. It is hoped that the number of active panel members can be doubled over the course of 2002.

f. Benchmarks. In St. Joseph County, only about 80 attorneys surveyed indicate that they are presently willing to accept pro bono cases. It is hoped that over the next year, 165 attorneys will become active pro bono volunteers. Once surveys are completed in Elkhart, Kosciusko and Marshall counties, the committee will work for a similar increase in the number of available attorneys.

g. Costs. Budget items allocated to activities responsive to Problem # 1 are: 50% of plan administrator's compensation, or \$15,000; 50% of general office expenses, or \$5,050; 100% of award/recognition dinner costs, or \$3,500; and 50% of premium for liability insurance.

a. Problem/Barrier # 2. Lack of an administrative support system for pro bono volunteers.

b. Supportive data. Except for pro bono cases referred by Indiana Legal Services to its panel attorneys, litigation support for pro bono services is for the most part provided by individual attorneys or firms. One-half of survey respondents report that they would take pro bono cases if they were pre-screened for income eligibility and merit. In addition, attorneys predict that they and their colleagues would take more cases if litigation support were available, for example, free computerized research, practice tips and sample documents, cost reimbursement, a panel of mentors, and law student or paralegal assistance.

In Marshall County, committee members report that earlier efforts to begin pro bono programs

failed due to lack of administrative support.

c. Recommended action and plan for implementation

1. Plan Administrator will collect sample pleadings and forms from existing legal services programs and maintain a pleading and form bank for use by attorneys accepting pro bono cases.
2. Protocols for screening and referring cases to panel members will be developed in consultation with existing programs.
3. Volunteer attorneys will be asked to complete forms logging pro bono hours and expenses, which will facilitate reimbursement of non-waived costs, generally at the conclusion of the case.
4. Plan Administrator will work with the Pro Bono Commission and other districts to obtain reasonably priced professional liability insurance for pro bono program volunteers.
5. Committee will recruit and coordinate mentor, law student and paralegal volunteers to assist where needed in pro bono cases.

d. Coordination with the community. The Plan Administrator will consult with local bar members, existing service programs, and judges in designing, implementing and improving the screening and referral procedures. Assistance of existing legal service programs will be essential in collecting and maintaining form banks. The committee will work with local law school and paralegal programs to recruit volunteers to assist pro bono attorneys.

e. Expected results. Development of screening, referral and litigation support systems is expected to increase by at least 50% the number of pro bono cases accepted in the year 2000. The only baseline data available, that of Indiana Legal Services, Inc., indicates that 110 pro bono cases were opened in the year 2000. The district expects to increase that number by at least 50%, resulting in a minimum of 165 successful referrals in 2002. Establishing a solid administrative support system is also expected to generate enthusiasm for participation in pro bono services among the bar in general, creating a positive environment for future volunteer efforts.

f. Benchmarks. With the exception discussed in (e), district-wide data regarding the bar's pro bono services is just beginning to be collected. Implementation of the 2002 plan will result in better record-keeping, so that progress achieved during the year can be more accurately measured.

g. Costs. Expenses allocated to addressing problem #2 in the 2002 plan: 40% of the plan administrator's compensation, or \$12,000; 40% of general office expenses, or \$4,040; 100% of non-waived litigation costs, or \$1,000; and 50% of the cost of liability insurance.

a. Problem/Barrier # 3. Attorneys' lack of experience with legal problems most commonly encountered by indigent persons.

b. Supportive data. Attorney surveys indicate that lack of specialized legal training is a primary reason for declining pro bono representation. At least half the caseload of existing programs involve family law issues-- dissolution, child support and custody, post-dissolution, paternity, adoption and guardianship. The second most common type of case concerns landlord-tenant and housing issues, and a close third is represented by immigration and other statutory/administrative matters. Many lawyers who would otherwise volunteer have little or no experience in some of these areas.

c. Recommended action and plan for implementation. The Committee will sponsor, or co-sponsor with other bar groups and legal service programs, continuing legal education courses oriented to issues most commonly faced by poor families. Tuition will be minimal, if the attorney agrees to accept at least two pro bono cases. Assuming that space will be donated, primary costs incurred will be for food and beverage service during breaks, advertising and publicity. Maintenance of form banks is also an important means of addressing this concern. Finally, the committee will explore creation of a panel of mentors to provide advice to new

volunteer attorneys.

d. Coordination with the community. As indicated above, it is intended to plan and host CLE programs in partnership with local bar associations and existing legal service programs. Care will be taken to find locations convenient to attorneys throughout the district.

e. Expected results. It is anticipated that providing low-cost continuing education programs will attract new volunteer attorneys, while providing them with substantive knowledge to provide effective representation to poor persons. Publicizing the programs can also serve as a means of heightening awareness of the pro bono program overall.

f. Benchmarks. Tracking attorneys who attend the pro bono seminars will be relatively simple, as will correlation of those who sign up for the courses and those who accept pro bono cases. A comparison can be readily made between those already on Indiana Legal Services pro bono panels and new volunteers recruited through the CLE programs.

g. Costs. The 2002 budget allocates 10% of the plan administrator's compensation, or \$3,000; 10% of general expenses, or \$1,010; and 100% of education and training costs, or \$800 to #3.

**3. Budget for District 2 Plan for 2002.** Fiscal agent: Hon. Peter J. Nemeth.

Compensation of plan administrator	\$ 30,000
Education and training	800

Award/recognition dinners	3,500
Reimbursement of litigation expenses	1,000
Liability insurance for pro bono attorneys	??
Office Expenses:	
Computer equipment & software	3,500
Toll-free/800 telephone number	3,000
Copying and printing	700
Postage	2,000
Supplies, miscellaneous	400
Travel	<u>500</u>
<b>TOTAL BUDGETED</b>	<b>\$ 45,400 + Insurance cost</b>